



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,923	07/30/2003	Lothar Gluderer	WSO-41956	1925
24131	7590	12/28/2005		EXAMINER
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			GILBERT, SAMUEL G	
			ART UNIT	PAPER NUMBER
			3735	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/629,923	GLUDERER, LOTHAR	
	Examiner	Art Unit	
	Samuel G. Gilbert	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims have been amended to include the term "accommodation room", the specification as originally filed does not have support for the term "accommodation room". Further, the applicant claims the "accommodation room being non-transportable", the specification as originally filed does not provide support for a "non-transportable" accommodation room. The specification indicates that the unit is installed in hotels, wellness centers or fitness centers the examiner's position is that if the device was "non-transportable" it could not be transported to these locations to be installed. The claim was also amended to include a "continuous and steady period of time" which is not set forth in the specification as originally filed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 – lines 13-15 set forth the accommodation room being “non-transportable and to be installed in a house...or the like”, it is unclear to the examiner what structural limitations render the “accommodation room” non-transportable. Further, it is unclear how the device is both “non-transportable” and installed in a house or the like. How is the accommodation room transported to the location which it is to be installed?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hood et al (5,975,081).

Claim 1 - the device as a whole is an accommodation room, element -26- is a chamber forming device (living unit), element -46- is a control device, elements -74- are biosensors and the system is directly controlled based on the sensed parameters, column 18 lines 40-44 and claim 1 are examples. It is the examiner’s position that “room” is a broad term as defined by Webster’s Ninth New Collegiate Dictionary – an

extent of space occupied by or sufficient or available for something. Hood teaches a device that has sufficient space to live in at least temporarily. The applicant has not set forth any specific definition in the specification at the time the application was filed to define the "room" differently from the common definition. In this case the system -10- is considered a "room" having a living unit -26-. The claim has been amended to include the accommodation room being "non-transportable and to be installed in a house...or the like" however, the structural limitations required to render the device "non-transportable" have not been set forth. The device of Hood et al is clearly installed in the vehicle in which it is to be transported using standard NATO stretcher mounts. Further, after the device is installed it is "non-transportable" with respect to the vehicle in which it is installed. The examiner is taking the vehicles set forth in Hood et al to be included in the "or the like" set forth in the claim. The examiner would also like to point out that it is well known that structures as claimed such as houses can be picked up and moved, thereby moving all the contents of the house including the claimed "room" or if the claimed "accommodation room" was installed in a red cross hospital ship the accommodation room would be transportable. Therefore, it is the examiner's position that the device of Hood et al. is non-transportable with respect to the vehicle in which it is installed while the vehicle is in motion. Regarding "continuous and steady period of time" set forth in the claim the device set forth by Hood et al. is capable of being used continuously for "hours" several places ion the specification set forth a time period of "two hours". In the absence of any limiting special definition of "continuous and steady period of time" the examiner is taking "two hours to be a continuous and steady period

of time. Further, the claim is only directed to the subcombination of the "accommodation room" and does not include the structure in which the "accommodation room" is to be installed.

Claim 2 - temperature is sensed, column 22, lines 39-52.

Claim 3 - the system is a closed loop system, column 25, lines 1-20.

Claims 4 and 5 - the biosensors are connected to a control device via a radio link, applicant's attention is invited to element -817-.

Claim 6 - the humidity of the O₂ content is considered to be a composition of fluidic media.

Claim 7 - pressure in the chamber is controlled, column 10, lines 30-45.

Claim 8 - acoustic and light is controlled, column 22, lines 39-52.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guiles, Jr. (5,538,471) in view of Hood et al (5,975,081).

Guiles teaches an accommodation room including a living unit -14- and a control device -68-. The room of Guiles is to be installed health care facility. Guiles does not

teach biosensors to detect body parameters or controlling climate and ambient conditions based on the body parameters detected by said biosensors. The accommodation room can be a positive or negative isolation unit depending on what parties are to be protected by the unit. Hood et al. teaches a positive or negative pressure isolation unit including biosensors and a control system using the sensed values from the sensors to control the climate and ambient conditions in the isolation unit. Hood et al sets forth the limitations in the claims as follows.

Claim 2 - temperature is sensed, column 22, lines 39-52.

Claim 3 - the system is a closed loop system, column 25, lines 1-20.

Claims 4 and 5 - the biosensors are connected to a control device via a radio link, applicant's attention is invited to element -817-.

Claim 6 - the humidity of the O₂ content is considered to be a composition of fluidic media.

Claim 7 - pressure in the chamber is controlled, column 10, lines 30-45.

Claim 8 - acoustic and light is controlled, column 22, lines 39-52.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the biosensors and control system of Hood et al with the isolation unit of Guiles to provide the advantages of a control system that regulates operation of the medical devices without need for operator intervention thereby minimizing the attention required by care givers and therefore allowing a number of care givers to provide care to more patients, column 5, lines 19-21 and column 21 lines 49-54. The system further maximizes the effectiveness of the therapies to be provided by

providing them at the earliest possible moment based upon the detected values from the biosensors without the need for caregiver intervention.

Response to Arguments

The applicant has argued that the claimed invention is for installation in a variety of places while the device of Hood is not. It is the examiner's position that the device of Hood is installed in a plurality of vehicles using standard NATO mounts and is capable of being installed in any of the places set forth in the claim.

The applicant argues that "room" is limited to definition 3a (a partitioned part of the inside of a building) on page 1023 of Websters Ninth New Collegiate Dictionary, provided by the examiner. The specification sets forth no limiting special definition for the term "room" further, the examiner has previously set forth that the term room should be considered to be its broadest reasonable interpretation which was set forth as definition 1 (an extent of space occupied by or sufficient or available for something) of room as provided by the examiner. The applicant has provided no evidence or convincing arguments that the term room should be limited beyond the broad definition as set forth by the examiner. Further, looking to the applicant's specification the applicant sets forth a variety of names for the device including "chamber", "climate chamber", "climate-controlled chamber" and "room" however, "accommodation room" has never been set forth, therefore the examiner believes that the term "accommodation room" should be defined by its broadest reasonable interpretation include all the embodiments

(names) set forth in the specification and should not be limited to being “a partitioned part of the inside of a building”.

The applicant also argues that the device of Hood et al is not “installed but merely “placed”. The applicant argues that “installation” includes to set up and make something ready for use. The examiner believes that the “to be installed” language included in the claim is directed to intended use limitations and does not impart any structural limitations to the claimed invention, therefore the device of Hood et al only has to be capable of performing the recited intended use limitation. It is the examiner’s position that the device of Hood et al is “installed” into the vehicle in which it is to be used by the step of connecting it to the NATO mounts as described. Further, the device is inherently made ready for use when it is installed if a patient is present in the enclosure. Therefore the examiner considers the device of Hood et al to be installed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3735

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on 571-272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Samuel G. Gilbert
Primary Examiner
Art Unit 3735

sgg